

REMARKS

Claims 1-20, 22-25, and 27-30 are currently pending in this application.

The presently claimed invention reflects Applicants' discovery that an effective amount of propylene glycol alginate (PGA) provides the desirable dough characteristics that in prior formulations, was achieved by the use of increased amounts of gluten. A problem with use of higher amounts of gluten, however, is the possible negative impact on dough processability. Too much gluten can make a dough too gummy to process under, for example, low shear food manufacturing methods. Thus, Applicants have found an innovative product that is easily processable under challenging conditions yet when baked, performs as generally desired. Characteristics such as achieving good final baked volume and appropriate amount of springiness (i.e. ability to spring back after compression) are examples of the dough characteristics that the formulation of the claimed invention can provide. Thus advantageously, the dough formulation need not rely on increased amounts of glutens or proteins. Rather, it is Applicants' careful selection of a particular ingredient and the discovery that a specific amount of PGA can be useful in a leavened dough product.

§ 112 Rejection of the Claims

The Examiner maintains the rejection of Claim 19, as being indefinite under 35 U.S.C. § 112. Applicants respectfully disagree. The term "partially unproofed" is terminology easily understood by those in the baking art/industry. Unproofed dough is well known in the art as a dough that has not risen or increased in volume by mechanism of the leavening system. Therefore partially unproofed is easily understood to mean that some proofing has occurred, however, the dough composition would have an amount of inactivated leavening agent to just partially increase the volume of the product. Accordingly, Applicants respectfully assert aht claim 19 is definite and fully complies with the requirements of 35 U.S.C. § 112¶2. Therefore withdrawal of this rejection is respectfully requested.

§ 103 Rejection of the Claims

Claims 1-20, 22-25 and 27-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Book et al., U.S. Patent No. 6,149,960, in view of Chawan, U.S. Patent No. 6,720,312, Chawan et al., U.S. Patent No. 5,759,607 and Laughlin et al., U.S. Patent No. 5,855,945 [

Book et al. relates to a bakery product leavened without yeast. This reference. As discussed in Applicants' prior communication, and acknowledged by the Examiner in the Office Actions received by Applicant to date, Book does not teach nor suggest the use of PGA or even a modification of the product to include an ingredient such as PGA. Therefore, the Examiner has pulled three additional secondary references to combine with Book to assert a rejection of obviousness.

Applicants respectfully assert that a *prima facie* case of obviousness has yet to be established by the Examiner. The Examiner relies on new art in an attempt to find unpatentability of the claims, by replacing previously relied upon secondary references with two new references, Chawan and Chawan et al. However, even with additional art, Applicants insist that obviousness does not exist and therefore does not render the claimed invention unpatentable.

Chawan teaches a pasta or pasta foodstuff that can be used to treat type 2 diabetes. The foodstuff includes PGA to decrease the starch loss of pasta during cooking (e.g. boiling). See col. 4, lines 50-61. Starch loss, however, does not occur and therefore is not a concern with Applicants' dough products. Furthermore, a pasta foodstuff is not the same nor does it behave the same as a leavened dough. Leavened dough has specific characteristics that pose a variety of challenges to a manufacturer, to assure final product quality. Good volume increases and springiness, for example, are not characteristics that pasta must achieve. Therefore, one of ordinary skill in the art would not rely on the pasta formulation of Chawan to modify the Book product.

Chawan et al. adds nothing further as well. In similar teaching, Chawan et al. provides a pasta that includes PGA, this time to improve the food's texture. See the Abstract of Chawan et al. The improved texture appears to be a result of PGA's effect of helping reduce the non-enzymatic retrogradation of the cooked pasta. Again, in contrast to Chawan et al.'s pasta food, Applicants have formulated a leavened dough product, where a gas-maintaining cellular structure is developed to ensure volume increases and springiness in a baked product. Pasta dough does not include leaveners and therefore does not have cells to hold gas. There is no teaching nor suggestion that PGA can or should be used in a leavened dough food system, and therefore one skilled in the art would not even turn to such a teaching if the goal is develop a leavened dough formulation. Furthermore, PGA in applicants' formulation is not for textural improvement, but rather for springiness, while maintaining the gluten structure of the leavened dough.

Finally, as discussed in a prior communications, Laughlin is not relevant to the patentability of the claimed invention, even if it were combined with Book and the

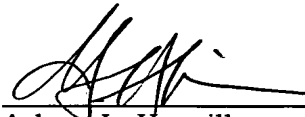
two Chawan references. Laughlin relates to compositions that use complimentary leavening agents. There is no disclosure or suggestion of a use of PGA in such dough compositions.

The Examiner has relied on improper hindsight to combine four references that provide bits and pieces of various components of Applicants' claimed invention. Nowhere in any of the references has it been taught nor suggested that leavened doughs with performance characteristics achieved by Applicants' formulations could be achieved by modifying compositions taught in the references and adding an ingredient (PGA) found and described in a wholly separate reference. Applicants respectfully request withdrawal of this rejection, as it is clear that one of ordinary skill in the art would not have found it obvious, based on the teachings of Book, Chawan, Chawan et al., and Laughlin, that a leavened dough formulation as presently claimed, could be achieved. The Examiner has not pinpointed with distinction where the necessary motivation is based, to modify Book's composition with an ingredient that changes texture and starch loss (per Chawan references). Accordingly, Applicants respectfully request withdrawal of this rejection.

Applicants respectfully request consideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested. Please contact the undersigned if it will assist in expediting prosecution of these claims.

Please apply any charges or refunds to Deposit Account No. 07-0900 and provide notification of such transaction(s) to the address below.

Respectfully Submitted,



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